



## UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES  
BOX INTERFERENCE, WASHINGTON, D.C. 20231

Filed by: Judge Sally Gardner Lane  
Telephone: (703) 308-9797  
Facsimile: (703) 305-0942

MAILED

SEP 29 2004

PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

Applicant: EDELMAN  
Application No.: 09/529,172  
Filed: 08/22/00  
For: Transgenic lemnaceae

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,261.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

A handwritten signature in cursive script, reading "Sally Gardner Lane", written over a horizontal line.

SALLY GARDNER LANE  
Administrative Patent Judge

## INTERFERENCE DIGEST

Interference No. 105,261

Paper No.

Name: Meir Edelman et al.

Serial No.: 09/529,172

Patent No.

Title: Transgenic lemnaceae

Filed: 08/22/00

Interference with Stomp et al.

### DECISION ON MOTIONS

Administrative Patent Judge, \_\_\_\_\_ Dated, \_\_\_\_\_

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### FINAL DECISION

Board of Patent Appeals and Interferences, \_\_\_\_\_ Dated, \_\_\_\_\_

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Court, \_\_\_\_\_ Dated, \_\_\_\_\_

### REMARKS

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This should be placed in each application or patent involved in interference in addition to the interference letters.

Filed by: Sally Gardner Lane  
Administrative Patent Judge  
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P.O. Box 1450  
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Fax: 571-273-0042<sup>1</sup>

Filed  
29 September 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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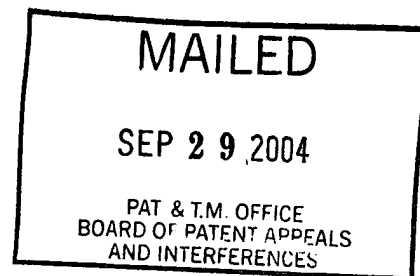
BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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MERI **EDELMAN**,  
AVIHAI PERL, MOSHE FLAISHMAN, and  
AMNON BLUMENTHAL,  
Junior Party  
(Application 09/529,172),

v.

ANNE-MARIE **STOMP**, and  
NIRMALA RAJBHANDARI,  
Senior Party  
(Patent 6,040,498).



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Patent Interference No. 105,261

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**DECLARATION**

**Part A. Declaration of interference**

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties. Details of the application, patent, count and claims designated as

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<sup>1</sup> The telephone number until October 6, 2004, is 703-308-9797. The facsimile number until October 6, 2004, is 703-305-0942.

corresponding or as not corresponding to the count(s) appear in Parts E and F of this DECLARATION.

**Part B. Judge managing the interference**

Administrative Patent Judge Sally Gardner Lane has been designated to manage the interference. 37 CFR § 41.104(a) [Bd. R. 104(a)].

**Part C. Standing order**

A Trial Section STANDING ORDER [SO] accompanies this DECLARATION. The STANDING ORDER applies to this interference.

**Part D. Initial conference call**

A telephone conference call to discuss the interference is set for **2:00 p.m. on 16 November 2004** (the Board will initiate the call).

No later than **two business days** prior to the conference call, each party shall file and serve by facsimile (SO ¶ 4.5) a list of the motions (Bd. R. 120; Bd. R. 204; SO ¶ 26) the party intends to file.

A sample schedule for taking action during the motion phase appears as Form 2 in the STANDING ORDER. Counsel are encouraged to discuss the schedule prior to the conference call and to agree on dates for taking action. A typical motion period lasts approximately eight (8) months. Counsel should be prepared to justify any request for a shorter or longer period.

## **Part E. Identification and order of the parties**

### Junior Party

**Named Inventors:** Meir Edelman  
Rehovot, ISRAEL

Avihai Perl  
Rishon Lezion, ISRAEL

Moshe Flaishman  
Ramat Aviv, ISRAEL

Amnon Blumenthal  
Rehovot, ISRAEL

**Application:** 09/529,172, filed 22 August 2000

**Title:** TRANSGENIC LEMNACEAE

**Assignee:** Yeda Research and Development Co., Ltd. at the  
Weizmann Institute of Science

**Accorded Benefit:** PCT/IL98/00487, filed 8 October 1998

PCT/IL97/00328, filed 10 October 1997

Senior Party

Named inventors:	Anne-Marie Stomp Raleigh, North Carolina  Nirmala Rajbhandari Raleigh, North Carolina
Patent :	6,040,498, issued on 21 March 2000 and based on application 09/132,536 filed 11 August 1998
Title:	GENETICALLY ENGINEERED DUCKWEED
Assignee:	North Carolina State University
Accorded Benefit:	US 60/055,474, filed 12 August 1997

The senior party is assigned exhibit numbers 1001-1999. The junior party is assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1). The senior party is responsible for initiating settlement discussions. SO ¶ 18.

## **Part F. Count and claims of the parties**

### Count 1

Claims 1, 12, 19, 23, 25, 54, 65, 66, 67, or 71 of Edelman, 09/529,172

or

Claims 1, 20, 30, 48, 59, or 62 of Stomp (6,040,498)

The claims of the parties are:

Edelman: 1-8, 12-19, 21-36, 54-58, and 65-71

Stomp: 1-65

The claims of the parties which correspond to Count 1 are:

Edelman: 1-8,<sup>2</sup> 12-19, 21-36, 54-58, and 65-71

Stomp: 1-65

The claims of the parties which do not correspond to Count 1, and therefore are not involved in the interference, are:

Edelman: none

Stomp: none

## **Part G. Heading to be used on papers**

The heading in SO Form 1 must be used on all papers filed in this interference.

See SO ¶ 7.2.1. The administrative patent judge and parties must be indicated as follows:

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<sup>2</sup> The examiner has indicated that claim 3 is not patentable to Edelman (See Form 850, enclosed).

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES  
(Administrative Patent Judge Sally Gardner Lane)

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MERI **EDELMAN**,  
AVIHAI PERL, MOSHE FLAISHMAN, and  
AMNON BLUMENTHAL,  
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(Application 09/529,172),

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Senior Party

(Patent 6,040,498).

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Patent Interference No. 105,261

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**Part H. Order form for requesting file copies**

When requesting copies of files, use of SO Form 4 will greatly expedite processing of the request. Please attach a copy of Part E of this DECLARATION with a hand-drawn circle around the patents and applications for which a copy of a file wrapper is requested.



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Sally Gardner Lane  
Administrative Patent Judge



Enc:

Copy of STANDING ORDER

Form PTO-850

Copy of Request for Interference under 37 CFR § 1.607 (by Edelman)

Copy U.S. Patent 6,040,498

Copy of claims of 09/529,172

Revised September 2004

cc (via overnight delivery):

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BROWDY and NEIMARK

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